

MARTIN H. ORLICK, SBN 83908, [mho@jmbm.com](mailto:mho@jmbm.com)  
MATTHEW S. KENEFICK, SBN 227298, [msk@jmbm.com](mailto:msk@jmbm.com)  
JEFFER, MANGELS, BUTLER & MARMARO LLP  
Two Embarcadero Center, 5<sup>th</sup> Floor  
San Francisco, California 94111  
Telephone: (415) 398-8080  
Facsimile: (415) 398-5584

Attorneys for Specially Appearing Defendant  
CITY OF SAN FRANCISCO UPTOWN PARKING  
CORPORATION, a California non-profit corporation

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CRAIG YATES,

Plaintiff,

v.

UNION SQUARE; CITY AND COUNTY OF  
SAN FRANCISCO; CITY OF SAN  
FRANCISCO UPTOWN PARKING  
CORPORATION; EMPORIO RULLI IL  
CAFFE UNION SQ.; EMPORIO RULLI IL  
CAFFE UNION SQ., INC.; and DOES 1  
through 50, Inclusive,

Defendants.

CASE NO. C 07 4087 EDL

**DECLARATION OF MARTIN H. ORLICK,  
ESQ. IN SUPPORT OF *EX PARTE*  
APPLICATION FOR EXTENSION OF  
TIME FOR SPECIALLY APPEARING  
DEFENDANT, CITY OF SAN FRANCISCO  
UPTOWN PARKING CORPORATION, TO  
FILE A RESPONSE TO CIVIL  
COMPLAINT**

I, Martin H. Orlick, Esq. declare:

1. I am a member of the law firm of Jeffer, Mangels, Butler & Marmaro LLP and am duly licensed to practice before this Court. I make this declaration based on personal, first hand knowledge, and if called to testify as a witness as to any of the matters contained herein, I am competent to and would do so.

2. On Friday afternoon, August 24, 2007, I received a telephone call from Paul Newman, Esq. of the law firm of Keil & Connolly, corporate counsel for the City of San Francisco Uptown Parking Corporation ("UPC") who asked if I would consider representing UPC and the City and County of San Francisco in the defense of this action.

JMBM  
Jeffer Mangels  
Butler & Marmaro LLP

1           3.       Although I was unavailable when Mr. Newman telephoned, I returned his call  
2 that afternoon and spoke with Mr. Newman first thing Monday morning, August 27, 2007.  
3 Mr. Newman informed me that UPC was served with the Summons and Complaint in this action  
4 August 13, 2007, and again requested that I represent both UPC and the City and County of San  
5 Francisco. The City and County of San Francisco leases Union Square and the Union Square  
6 parking garage to UPC.

7           4.       On August 9, 2007, plaintiff filed this action against UPC, the City and  
8 County of San Francisco and Emporio Rulli Il Caffe Union Square for alleged violations of state  
9 and federal accessibility laws.

10          5.       On August 27, 2007, Mr. Newman provided me with a copy of the Summons  
11 in a Civil Case, Court Pre-Filing Orders and the Complaint.

12          6.       On August 27, 2007, immediately after being retained by UPC and upon  
13 reviewing the Summons and Complaint, I telephoned plaintiff's counsel, Timothy S. Thimesch,  
14 Esq., of the Thimesch Law Offices, against whom I defended a number of ADA lawsuits in this and  
15 other District Courts. I told Mr. Thimesch I had just been retained and, given the complexity of the  
16 case and the number of parties involved, my client and I requested an extension of time to respond  
17 to the Complaint. Mr. Thimesch refused to grant any extension of time to respond to the  
18 Complaint, although he was agreeable to an extension of time to answer the pleading. I told  
19 Mr. Thimesch his offer was unacceptable and that I could not compromise my client's rights to file  
20 motions challenging the action, if appropriate, for his convenience.

21          7.       As a result of Mr. Thimesch's refusal to grant an extension of time to respond  
22 to the Complaint, UPC has been forced to bring this application.

23          8.       My firm has also been requested by UPC to defend the City and County of  
24 San Francisco and we are in the process of obtaining necessary conflict waivers. This process can  
25 take some time to complete.

26          9.       Defendant, UPC, requests that this Court grant a brief extension of time for it  
27 and the other Defendants, who have been served with process, to respond to the Complaint to and  
28 including September 28, 2007.

1 I declare under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct, based on actual knowledge, and that this Declaration was executed in  
3 San Francisco, California.

4  
5 DATED: August 30, 2007

/s/ Martin H. Orlick

MARTIN H. ORLICK, ESQ., Declarant

JMBM | Jeffer Mangels  
Butler & Marmaro LLP